

**Introduced by Senator Harman**February 14, 2011

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An act to amend Sections 5301, 5303, and 5401 of the Probate Code, relating to multiple-party accounts.

## LEGISLATIVE COUNSEL'S DIGEST

SB 273, as introduced, Harman. Multiple-party accounts.

The California Multiple-Party Accounts Law regulates the ownership interest of parties to a multiple-party account, and provides that during the lifetime of the parties, a party's ownership interest is based on the proportion of the party's net contribution to the sums on deposit.

This bill instead would base a party's ownership interest in the account on the proportion of the party's net contributions to the account.

Existing law provides that rights of survivorship are eliminated for funds withdrawn by a party with a right of withdrawal during the lifetime of the party.

This bill instead would eliminate those rights of survivorship with respect to funds withdrawn to the extent of the withdrawing party's net contribution to the account. The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 5301 of the Probate Code is amended to  
2     read:  
3     5301. (a) An account belongs, during the lifetime of all parties,  
4     to the parties in proportion to the net contributions by each to the

1 ~~sums on deposit~~, unless there is clear and convincing evidence of  
2 a different intent.

3 (b) In the case of a P.O.D. account, the P.O.D. payee has no  
4 rights to the sums on deposit during the lifetime of any party, unless  
5 there is clear and convincing evidence of a different intent.

6 (c) In the case of a Totten trust account, the beneficiary has no  
7 rights to the sums on deposit during the lifetime of any party, unless  
8 there is clear and convincing evidence of a different intent. If there  
9 is an irrevocable trust, the account belongs beneficially to the  
10 beneficiary.

11 SEC. 2. Section 5303 of the Probate Code is amended to read:

12 5303. (a) The provisions of Section 5302 as to rights of  
13 survivorship are determined by the form of the account at the death  
14 of a party.

15 (b) Once established, the terms of a multiple-party account can  
16 be changed only by any of the following methods:

17 (1) Closing the account and reopening it under different terms.

18 (2) Presenting to the financial institution a modification  
19 agreement that is signed by all parties with a present right of  
20 withdrawal. If the financial institution has a form for this purpose,  
21 it may require use of the form.

22 (3) If the provisions of the terms of the account or deposit  
23 agreement provide a method of modification of the terms of the  
24 account, complying with those provisions.

25 (4) As provided in subdivision (c) of Section 5405.

26 (c) During the lifetime of a party, the terms of the account may  
27 be changed as provided in subdivision (b) to eliminate or to add  
28 rights of survivorship. Withdrawal of funds from the account by  
29 a party ~~with a present right of withdrawal during the lifetime of a~~  
30 ~~party~~ also eliminates rights of survivorship ~~upon the death of that~~  
31 ~~party~~ with respect to the funds withdrawn *to the extent of the*  
32 *withdrawing party's net contribution to the account.*

33 SEC. 3. Section 5401 of the Probate Code is amended to read:

34 5401. (a) Financial institutions may enter into multiple-party  
35 accounts to the same extent that they may enter into single-party  
36 accounts. Any multiple-party account may be paid, on request and  
37 according to its terms, to any one or more of the parties or agents.

38 (b) The terms of the account or deposit agreement may require  
39 the signatures of more than one of the parties to a multiple-party  
40 account during their lifetimes or of more than one of the survivors

1 after the death of any one of them on any check, check  
2 endorsement, receipt, notice of withdrawal, request for withdrawal,  
3 or withdrawal order. In such case, the financial institution shall  
4 pay the sums on deposit only in accordance with such terms, but  
5 those terms do not limit the right of the sole survivor or of all of  
6 the survivors to receive the sums on deposit.

7 (c) A financial institution is not required to do any of the  
8 following *pursuant to Section 5301, 5303, or any other provision*  
9 *of this part*:

10 (1) Inquire as to the source of funds received for deposit to a  
11 multiple-party account, or inquire as to the proposed application  
12 of any sum withdrawn from an account, for purposes of  
13 establishing net contributions.

14 (2) Determine any party's net contribution.

15 (3) Limit withdrawals or any other use of an account based on  
16 the net contribution of any party, whether or not the financial  
17 institution has actual knowledge of each party's contribution.

18 (d) All funds in an account, unless otherwise agreed in writing  
19 by the financial institution and the parties to the account, remain  
20 subject to liens, security interests, rights of setoff, and charges,  
21 notwithstanding the determination or allocation of net contributions  
22 with respect to the parties.